



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

April 14, 2004

Mr. James Galvin
City of Dover
15 E. Loockerman Street
Dover, DE 19901

RE: PLUS review – PLUS 2004-03-07; City of Dover Comprehensive Plan Amendment

Dear Mr. Galvin:

Thank you for meeting with State agency planners on March 24, 2004 to discuss the proposed comprehensive plan amendments for the City of Dover. This amendment would clarify that where the growth and annexation map designated land use categories for area of potential annexation, those designations are to provide general guidance. The City's Department of Planning and Inspections may detail more specific land uses within those areas on a parcel specific basis.

Our office feels that the proposed text amendment provides additional flexibility to the City's annexation plan, and does not object to the amendment as proposed. We did not receive any negative comments from the State Agencies regarding the amendment itself. However, as we discussed at the meeting the agencies did have a variety of comments regarding the City's annexation plan that are presented in this letter for the information of the City.

This office has received the following comments from State agencies:

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There are no National Register listed properties in the areas being considered for annexation. However, there are National Register listed properties located in and near the "Areas of Concern," with these properties being one of the reasons these areas are of concern. SHPO appreciates the acknowledgement of these listed properties and the City's realization that the rural context of these properties is significant. Also, as the City

considers the Category 3 area of annexation and are deciding on land uses for these areas, they should be aware of possible archaeological sites in the area south of the city, near the St. Jones River, and any impacts a new use could cause to these sites.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

DelDOT supports this amendment as providing a necessary flexibility.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091

While DNREC had no comments regarding the amendment to the comprehensive plan, they did supply the following comments regarding any future development of the proposed annexation areas:

TMDLs

Some of the parcels within the subject comprehensive plan amendment have the potential to impact headwater streams associated with the St. Jones sub-watershed of the Delaware Bay. Undisturbed headwater streams are critically important for the maintenance and preservation of water quality and the ecological function of the larger downstream area. Undisturbed headwater riparian areas and their associated forest lands not only protect and enhance water quality, they provide migratory corridors and habitat for a variety of wildlife species. Undisturbed upland forests are often an integral component in the maintenance/preservation of water quality and/or habitat integrity ecosystem integrity for a given watershed and efforts to maximize the preservation of existing upland forested acreage are strongly recommended. The Department recommends that efforts to increase buffer widths beyond the prescribed recommended minimum be instituted for those areas bordering riparian (1st order stream) wetlands.

These recommendations would be considered as effective pollution control strategies in meeting the future Total Maximum Daily Load (TMDL) Regulation to be established for the St. Jones Watershed.

Soils

The following is a summary of mapped soils found within the proposed annexation areas and are grouped on the basis of drainage class:

- Well drained – Sassafras & Matapeake
- Moderately well drained – Woodstown & Mattapex
- Poorly drained (**hydric**) – Fallsington, Othello & Elkton
- Very poorly drained (**hydric**) – Pocomoke & Tidal Marsh

Wetlands

According the Statewide Wetland Mapping Project (SWMP) mapping the following wetland types were mapped on subject parcels:

- palustrine scrub-shrub,
- palustrine forested,
- palustrine farmed,
- palustrine unconsolidated bottom, and
- estuarine emergent (tidal).

It is recommended that the City of Dover adopt and require a minimum 100-foot buffer width from landward edge of all isolated or riparian wetlands. In cases where natural buffer vegetation has been removed or reduced by past development or farming activities, the city is encouraged to make future development contingent upon the restoration/establishment of said buffer width with native herbaceous and/or woody vegetation.

The applicants should be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils, as they are subject to regulatory provisions of the Federal Clean Water Act 404 program governing jurisdictional wetlands. Tidal wetlands are subject to additional and more stringent regulatory protection under the State administered Tidal Wetlands Act of 1985.

A wetland delineation is highly recommended before commencing any site development of the proposed parcels.

Groundwater Recharge Potential and Source Water Protection Areas

According to the Delaware Geologic map of Ground-water Recharge Potential for Kent County there are areas of excellent to good recharge potential near some of the subject parcels. Recharge areas are important for groundwater replenishment and may be important in protecting source water areas. Areas of excellent recharge may be more vulnerable from near surface contaminants than areas of lower infiltration. The City should consider this when evaluating proposed land uses.

Habitat

A review of their database indicates that there are numerous species and/or communities that are located within lands identified as an Area of Concern or within Category 1, 2, or 3. As these parcels are reviewed for development, efforts should be made to avoid any impacts to the species listed in the tables below:

The applicant / City of Dover requested more information on the location of these species. These will be provided, however, a data manager or planner for the City of Dover should contact DNREC directly for the information. Please contact Karen Bennett at Karen.Bennett@state.de.us, or call 653-2883. This information cannot be provided until at least late June 2004.

Dot No.	Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
3	<i>Acantharchus pomotis</i>	Mud Sunfish	Fish	S2		G5	
5	<i>Liriodendron tulipifera-Quercus</i> spp.	Tulip Poplar-Oak-Beech/ (May Apple)	Community	S3?		G?	

6	<i>Lactuca floridana</i> var <i>floridana</i>	Woodland Lettuce	Plant	S2		G5T5?	
13	<i>Haliaeetus leucocephalus</i>	Bald Eagle	Bird	S2B,S3N	E	G4	PS,LT
14	<i>Notropis chalybaeus</i>	Ironcolor shiner	Fish	S2		G4	

The following species and/or communities are located within municipal boundaries or adjacent to lands identified above.

Dot No.	Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
1	<i>Notropis chalybaeus</i>	Ironcolor shiner	Fish	S2		G4	
2	<i>Nelumbo lutea</i>	American Lotus	Plant	S1.1		G4	
4	<i>Geum laciniatum</i> var <i>laciniatum</i>	Rough Avens	Plant				
7	<i>Ardea herodias</i>	Great Blue Heron	Bird	S2B		G5	
8	<i>Buteo platypterus</i>	Broad Winged Hawk	Bird	S1B		G5	PS
9	<i>Fagus grandifolia</i> - <i>Liriodendron</i>	Beech-Poplar-Gum Forest	Community	S2			
10	<i>Accipiter cooperii</i>	Cooper's Hawk	Bird	S1B,SZN		G5	
11	<i>Ranunculus ambigens</i>	Water Plantain Spearwort	Plant	S1.1		G4	
12	<i>Strix varia</i>	Barred Owl	Bird	S2		G5	
16	<i>Phyla lanceolata</i>	Fog-Fruit	Plant	S1		G5	

State Rank: S1 - extremely rare within the state (typically 5 or fewer occurrences); S2 - very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; **State Status:** E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state; **Global Rank:** G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T₁ - variety or subspecies rank; Q – questionable taxonomy; **Federal Status:** LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS – proposed status.

There are two Bald Eagle nest sites located within the study area of interest. Bald eagle nesting areas retain protection under the federal Endangered Species Act. All habitat within 750 feet of the nest is protected; no activity is permitted within this zone at any time of the year. Any work proposed within a secondary protection zone, defined as the area between 750 feet and 1,320 feet from the nest, will be under time-of-year restriction; no activity is permitted within this zone from 15 December to 1 July. Because the Bald Eagle is a federally listed species, the U.S. Fish and Wildlife Service (USFWS) will need to be contacted, as any decisions on federally listed species are ultimately their jurisdiction. Questions for USFWS should be directed to Craig Koppie at (410) 573-4534.

Public Service Commission - Contact: David Bonar 739-4247

The City is required, by law, to notify the Public Service Commission any time it annexes property that is outside its current boundaries. CPCN issuances in areas annexed must be

Request for Review – City of Dover

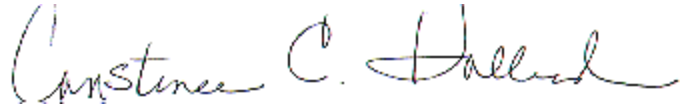
April 14, 2004

Page 5 of 5

resolved with the water utility involved and any takeover of electric utility service to the areas annexed must be approved by the PSC.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent.

Constance C. Holland, AICP
Director

CC: Kent County